AGENDA
CITY OF NEWTON

August 1, 2017
AGENDA
CITY OF NEWTON
NEWTON CITY COUNCIL - REGULAR MEETING
August 1, 2017
7:00 p.m.

1. Call to Order – Mayor Anne P. Stedman
2. Opening – Council Member Tom Rowe
3. Approval of Minutes from the July 11, 2017, Regular Meeting
4. Consideration of Consent Agenda Items
   A. Sewer Adjustments
   B. Consideration of Budget Ordinance Amendment to Carry Forward Outstanding Purchase Orders at June 30, 2017
   C. Consideration of Street Closure – Foothills Folk Art Festival
   D. Authorization for Fireworks Display – Hickory American Legion Fair Association
   E. Consideration of Commission/Committee Membership Appointments – Appearance Committee – Andrea Ortiz
5. Comments from the Public: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):
6. Public Hearing
   A. Consideration to Adopt the Comprehensive Pedestrian Plan
7. Old Business
   A. Consideration of Change Order – Newton-Conover High School Sewer Replacement
   B. Consideration of Award of SAFER Grant and Related Budget Ordinance
   C. Consideration of the Use of Principle Funds from the Estate of Lillian Sewell Jones
8. New Business
   A. Consideration to Adopt an Ordinance to Allow the Sale of Alcoholic Beverages Before Noon on Sundays at Licensed Premises
   B. Consideration of Budget Ordinance Amendment to Recognize Smart Sites/Communities Grant
9. City Manager’s Report
10. Questions and Comments From Mayor and Council
    A. Reports from Appointed Representatives on Outside Boards – Mayor Pro Tem John Stiver
11. Adjournment

PERSONS WANTING TO SPEAK ON AN AGENDA ITEM MUST SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING. PERSONS WANTING TO BE PLACED ON THE AGENDA FOR THE NEXT MEETING MUST CONTACT THE CITY MANAGER AT LEAST SEVEN WORKING DAYS BEFORE THE MEETING.

The City of Newton does not discriminate on the basis of disability in the provision of its services as charged by the City Council of the City of Newton. All meetings are held in accessible facilities. Any person with a disability needing special accommodations should contact Sean Hovis, ADA Coordinator, at least 48 hours prior to the scheduled meeting.
MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
July 11, 2017 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, July 11, 2017 at Newton City Hall.

PRESENT: Mayor Anne P. Stedman, Mayor Pro Tem John Stiver, and Council Members Tom Rowe, Jerry Hodge, Wes Weaver, Jody Dixon and Robert C. Abernethy Jr.

STAFF: City Manager Todd Clark, City Clerk Amy S. Falowski, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: CALL TO ORDER

Mayor Anne P. Stedman welcomed everyone and called the meeting to order.

ITEM 2: OPENING Invocation and Pledge of Allegiance

Council Member Wes Weaver provided the invocation and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Regular Minutes of the June 20, 2017 City Council meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Jerry Hodge, it was unanimously RESOLVED:

That the Consent Agenda be – APPROVED

A. Tax Releases

B. Sewer Adjustments

C. Consideration of Public Fee Structure 2017 Soldiers Reunion Activities

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: COMMENTS FROM THE PUBLIC: PEOPLE WHO WISH TO COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING.

Mayor Anne P. Stedman asked if anyone present would like to make comment concerning non-agenda items. No one appeared.

ITEM 6: Presentations

Mayor Anne Stedman presented Sandra Waters, Parks and Recreation Director, with a resolution celebrating 50 years of service with the city. Mayor Stedman stated that these years of service have been marked by exemplary participation vital for the accomplishments of the city and the Parks and Recreation Department. Mayor Stedman thanked Ms. Waters on behalf of herself and the City Council.
Mayor Stedman also presented Finance Director Serina Hinson and her staff the Certificate of Achievement in Financial Reporting from the Government Finance Officers Association for fiscal year 2016.

**ITEM 7: Old Business**

A. Discussion of Sue Jones Estate

Mayor Stedman stated that at this time council will discuss the estate of Sue Jones, and that a vote will not be taken tonight, but at the August 1st meeting.

City Attorney John Cilley stated that the will states that there have to be two separate unanimous votes by two seated councils at least 2 years and 3 months apart in order to utilize the principal, and that the August vote will only be a vote to use the money. Mr. Cilley stated that a specific project does not have to be named at the time of the vote. Mr. Cilley also stated that the vote has to be a unanimous vote of those council members in attendance, a quorum being present. He also stated that the money cannot be used for existing parks or for repairs on existing parks. He said it can be one big new project, or multiple little projects, and that acknowledgment with a plaque was requested.

Council Member Weaver asked what the consequences of a non-unanimous vote would be. Mr. Cilley stated that the money would stay with the city and be invested by the finance director. He said that any interest earned could be used for anything in the recreation budget. Mr. Rowe asked if the vote is not unanimous then when could another vote be taken. Mr. Cilley said that the will does not have a provision requiring that the two unanimous votes have to be consecutive, unanimous votes, so anytime Council wished to schedule another vote, it could do so. Mr. Abernethy asked if that means another vote could be taken in September. Mr. Cilley said that as there is no requirement in the will as to when subsequent votes must be taken other than the two year and three month requirement after the first unanimous vote to utilize the funds has already been taken, in his opinion, the answer is yes. Council Member Wes Weaver said that he has a hard time voting yes until he knows what will be dedicated to the Jones’’. He stated that it must be magnificent. Council Member Robert Abernethy agreed and said that they need to pick the items and designate the majority to a specific project. He asked if some of the money could be parlayed into more through grants. Mr. Weaver agreed.

Council Member John Stiver gave a timeline of the various meetings when the estate has been discussed, and said that a lot of time has been spent and that the money is worth less and less as expenses rise. He said that Mr. Abernethy has said twice we need to spend the money. He said that the council needs a consensus and that everyone can’t get what they want. Mr. Weaver stated that he wants to make sure the project gets the recognition the Jones’’ deserve. Mr. Stiver asked what he wants specifically. Mr. Weaver stated that his idea in February was a fitness center and amphitheater, but he said that he wants something grand to recognize them. He said that he asked for information on an amphitheater in February and didn’t get any. He said that he wants something to honor them and that if it’s an amphitheater he wants to know dimensions and the location. Mayor Stedman stated they are all on the same page concerning the recognition of the project.

Council Member Weaver stated that he is all for an amphitheater, he just wants to know exactly what is going to be done. Mr. Stiver said that there is a list of things they have talked about doing. He asked Mr. Weaver if he wants a large plaque at city hall or the recreation department in honor of the projects. Mr. Weaver said he wants something magnificent, and that he knows he can’t get his way on every cent but he wants to honor the intent of the will. Mayor Stedman said that he wants to know the project, Mr. Weaver said yes. Mayor Stedman asked if the project can be decided and then be designed and engineered. Mr. Weaver said that if one-third of the money is going toward the amphitheater he will vote yes. Mr. Abernethy stated that Randy Williams, Planning Director, could probably do a rendering.
Council Member Jerry Hodge stated that some projects have been listed since 2012, and what he is hearing council say is minimum of $500,000 toward a big project, one-third for leveraging other grants and one-third for small projects. He said that he feels like the funds need to be released first. Mr. Weaver said that is not going to happen. Mr. Hodge said that he feels this is a roadblock holding back money by one person because it is not “that project”. Mr. Weaver said he doesn’t care, that he doesn’t feel that this was Sue Jones’ intent to build a bunch of dog parks. Mr. Hodge says he has done his homework and that it is time after 5 years to use the money for a signature project, leverage grants and spend on small projects on the level of professionalism not politics. Mr. Weaver said that he is afraid that if he votes to release the funds then it won’t matter what he has to say after that. Mayor Stedman said that everyone likes to see ideas and that a conceptual drawing would be helpful.

Mr. Abernethy stated that people on the Recreation Committee have made recommendations as well and there is no sense singling out and asking one person what they wanted. He said the group brought recommendations that were narrowed down. He said Mr. Weaver and he both feel like if they could have an agreement on each item that could be part of the motion. He said an amphitheater with a nice sign on top. He said they’ve all done separate research, but that he has talked to some of Mrs. Jones’ friends and she liked outdoors, flowers and pocket parks with gardens. Mr. Weaver said that he wants to honor the will and an amphitheater with a statue or plaque would do that. He said he also brought up a fitness center. Mr. Hodge said that if it is in the will it will be done. Mr. Weaver said that he doesn’t trust this council.

Council Member Jerry Hodge stated that there is a certain amount of time in the will and nothing has happened. He said that Mrs. Jones had greenhouses and that there has to be a certain amount of faith in council’s decisions. One unanimous decision has been made and we have not been allowed to move forward. Council Member Abernethy stated that council doesn’t come up with the agenda and that we can’t just ask for trust. Mr. Hodge stated that he is asking for trust in the whole body of the council. Mr. Abernethy said he asked for trust over one penny. Mr. Abernethy said the project needs to be specific in the vote.

Council Member Jody Dixon stated that he has no problem with Mr. Weaver coming up with a project and that there is $250,000 for an amphitheater in the Streetscape plan. He said council should go with the things talked about. Mr. Weaver said that there was consensus in the workshop to spend one-third on a big project, one-third to find grants and one-third for smaller projects. Mr. Dixon said so $250,000 isn’t enough for the amphitheater. Mr. Weaver said no. Mr. Abernethy asked Mr. Rowe how much the pavilion was at the Newton Depot. Mr. Rowe said he couldn’t say for absolute sure, but he thinks around $150,000. Mr. Rowe said he thinks the council should drop the dog park from the list, leave the splash pad, amphitheater, lights and Jacob Fork Park. Mr. Weaver said he disagrees with the lights. Mr. Rowe said he would like to have rough cost estimates. Mr. Dixon said there are rough estimates. Mr. Weaver asked if there are concerns with rough estimates. City Manager Todd Clark stated that there is no way to guarantee without bidding the projects, grading etc. Mayor Stedman said that the city has parks and recreation estimates. Mr. Rowe said that you never know until the project is bid.

Council Member Stiver stated that there is Parks and Trust Fund money for grants for the splash pad, soccer fields at Jacob Fork Park and the lights. He said 1.4 million should be enough money to do well and not short change the projects, do them right.

Council Member Jerry Hodge stated that he had notes and lists of things that members of council have discussed and agreed on recently. Mr. Hodge shared that list as follows:

1. Designate approximately **$500K +/-** to construct a **“signature project”** that would appropriately honor the financial commitment made to the City of Newton from the estate of Ms. Sue Jones and Dr. Frank Jones.
   a) The project, most frequently, mentioned during the collective discussions was an amphitheatre in Newton designed as an event venue for outdoor performances and as a
space that could be enjoyed as a gathering place when not being utilized for an event. This project could be funded by the estate proceeds and/or leveraged with private funds.

2. Designate approximately $500K +/- to **leverage other financial resources** like grants or public/private partnerships that could be used as funding sources for a site plan at Jacob Fork Park that could include a soccer field with lighting, lighting for the baseball fields and completion of the Disc Golf Course. Projects should be consistent with the purpose for use of the proceeds as outlined in the Sue and Frank Jones Estate.

3. Designate approximately $500K +/- for the following projects, as, collectively, identified during discussions with each Council Member and as recommended by the City of Newton Recreation Department Master Plan 2016:
   a) **Recreational water feature** that is distinguished by its appealing design features, a public art component, its most effective placement site and its safety standards.
   b) **Pocket parks** designed as a gathering place and venue for park visitors and located on various geographic sites within the Newton city limits.

4. Ensure that Sue and Frank Jones are appropriately recognized and honored in name for their generous contribution.

5. Sue and Frank Jones Estate funds should only be applied to projects that are consistent with Sue Jones’ desire as expressed in the will.

6. The need and request for a Dog Park was identified in the 2016 Recreation Master Plan. A Dog Park was discussed by Council Members and received a lower priority based on park development costs, anticipated additional personnel costs and maintenance costs.

7. Concern for any funds being used at the Jacob Fork Park was expressed during a discussion because of its distance from the current population base in Newton. However, if a balance of projects in the City limits was achieved, use of the funds for Jacob Fork Park was considered acceptable.

8. Caution was expressed for constructing too many (more than 3) pocket parks. The concern focused on costs for maintenance/upkeep and cost for potential need for additional personnel to manage the parks. Consider making pocket parks a size that is practical and sustainable from a cost and maintenance perspective.

9. Allow enough estate fund balance to ensure that projects have enough money to be completed.

10. Let’s be aggressive in leveraging the estate funds to acquire additional funding from grants and public/private partnerships.

Mr. Hodge stated that he feels like all the council has agreed on this list and wants to move forward and that trust should not be an issue in this discussion. Council Member Weaver stated that he agreed to or conceded to all things and has said so all along. However, he wants nice projects rather than Jacob Fork Park.

Mayor Stedman asked about conceptual models. Mr. Clark said that it will cost to have these done. Council Member Abernethy stated that he would like to make the right decision. Mayor Stedman asked what happens if a design is made and no one likes it. Mr. Weaver said that’s a good point. Mr. Clark reminded everyone that we still don’t have consensus on the location for the amphitheater. Mayor Stedman asked if $500,000 was set aside for a signature project would everyone be good with that at the next meeting.

Council Member Wes Weaver encouraged everyone to read the will again before the next meeting.

Mr. Clark asked Mayor Stedman the expectation of staff for the August 1st agenda. Mayor Stedman said to include the consideration of the second vote to spend the principal of the Sue Jones estate on the August 1st agenda.

Council Member Jerry Hodge said that he has the utmost respect for council and apologized to the citizens and thanked them for their patience.
ITEM 8: City Manager’s Report

Meetings & Events

- July 13th Ribbon Cutting – Picket Fence Antiques and More, 107 North College Ave at 11:00 a.m.
- July 17th Ribbon Cutting – Capital Converting, 2066 Industrial Drive at 2:30 p.m.
- July 19th EDC Annual Meeting, Metro Center at 11:45 a.m.
- July 26th Ribbon Cutting – Studio 562, 1114 North Main Ave, 3:00 p.m.
- July 21st All-American Picnic at the Water Treatment Plant 11:30 a.m. – Employees and City Council Only
- July 22nd Motorcycle, Truck & Car Show Classic at Southside Park, 5:00 p.m.
- July 23rd Azalea Glen Official Ground Breaking, Radio Station Road at 2:00 p.m. with an open house from 1:00 p.m. until 5:00 p.m.
- July 25th Tales of the Rails at Newton Depot, showings at 2:00 p.m. and 7:00 p.m.
- July 25th NCMPA1 Board of Commissioners Meeting, Charlotte at 10:00 a.m.
- July 13, and July 20, July 27, August 3, and August 10, 2017 from 7 p.m. until 11 p.m. “Get Your NewtOn – Thursdays on the Square”

*Introduction of Brandon Elrod as Human Resource Director

Projects

- COPS Grant Application Filed
- City was awarded a $250,000 direct appropriation from the state of North Carolina – Mitchell Setzer and Andy Wells were instrumental in getting this grant for our Streetscape Revitalization Project
- Danner Industrial Sign installed on St. James Church Rd.
- Streetscape: Doug Wesson and Randy met with light / utility pole consultants and discussed specifications and requirements - Meet with NCDOT concerning light / utility poles and specifications – Worked with McGill on trees, street furniture and light / utility pole locations.
- Pedestrian Plan: Received comments from State – Met with consultants to discuss and make revisions – Due to be on Planning Board agenda for July (this will be to review revisions including Dogwood Hills concerns with PB and Public) and City Council in August for potential adoption.
- West A Street: A Request for Letter of Intent has been released and planning Staff has already some inquires. RFLOI are due on July 31st.

ITEM 9: Questions and Comments from Mayor and Council

Mayor Stedman reported on the DNDA and the Public Arts Committee. She said that Spooktacular is scheduled for October 28th and Get Your NewtON is an ongoing event throughout the summer. Also she said that the Foothills Folk Art Festival is looking for volunteers for this year’s festival.

Mayor Stedman asked if there were any questions or comments from City Council.
Council Member Robert C. Abernethy, Jr. stated that he is happy that a pay and class study is going to be done and that he thinks that the governing body needs to be part of that study. He said that he feels the wages and benefits for the council need to be looked at. Mr. Abernethy also said that the technology for council needs to be upgraded, and that maybe a cell phone or internet connection should be provided. Council Member Wes Weaver agreed.

**ITEM 10: Closed Session – Per North Carolina General Statutes 143-318.11(a)(5)**

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That City Council enter CLOSED SESSION per General Statutes 143-318.11(a)(5)

Motion was then made by Council Member Wes Weaver to return to open session, seconded by Mayor Pro Tem John Stiver. All Ayes.

**ITEM 11: Adjournment**

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Meeting be – ADJOURNED

__________________________________________
Anne P. Stedman, Mayor

__________________________________________
Amy S. Falowski, City Clerk
CITY OF NEWTON
Sewer Adjustments

TO: E. Todd Clark, City Manager  DATE: July 26, 2017
RE: Sewer Adjustments – August 1, 2017
FROM: Serina Hinson, Finance Director

The following sewer adjustment is recommended for approval. The adjustment is recommended as a result of a water leak at the service address or a pool fill up.

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Name</th>
<th>Service Address</th>
<th>Adjustment Period</th>
<th>Amount of Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>17000195-007</td>
<td>Derek A. Hullette</td>
<td>1292 Security St</td>
<td>July (Pool)</td>
<td>$58.75</td>
</tr>
<tr>
<td>61000640-018</td>
<td>Raquel C. Lavan</td>
<td>149 McDaniels Cir</td>
<td>May - June</td>
<td>$22.18</td>
</tr>
<tr>
<td>32000480-001</td>
<td>Hazel Misenheimer</td>
<td>1337 N. Frye Ave</td>
<td>June</td>
<td>$9.50</td>
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<tr>
<td>20002200-004</td>
<td>Rita Rogers</td>
<td>705 Westside Dr</td>
<td>July</td>
<td>$39.17</td>
</tr>
<tr>
<td>55001200-001</td>
<td>Judith Sigmon</td>
<td>708 E. 11th St</td>
<td>June</td>
<td>$23.76</td>
</tr>
</tbody>
</table>

Backup documentation to support each adjustment is on file in the Finance Department. Should you have questions or require further clarification, please notify.
CITY OF NEWTON  
REQUEST FOR COUNCIL ACTION

DATE: July 27, 2017

TO: E. Todd Clark, City Manager

FROM: Serina Hinson, Finance Director

CONSIDERATION OF: Budget Ordinance Amendment to Carry Forward Outstanding Purchase Orders at June 30, 2017

Approved for Council Consideration

Background:

As of June 30, 2017, the City of Newton had $1,070,100 in outstanding purchase orders. In accordance with Governmental Accounting Standards, these purchase orders will not be recognized as expenditures in Fiscal Year 2017 since they were not complete. However, for reporting purposes, these purchase orders will be reflected as a reservation of fund balance. This is a normal and routine practice of all counties and municipalities. These purchase orders are still legal, valid obligations of the City.

The attached budget ordinance reflects the necessary appropriations to reinstate these purchase orders in Fiscal Year 2018.

Action Suggested:

Motion to approve the attached Budget Ordinance Amendment to provide funding for the outstanding purchase orders at June 30, 2017
ORDINANCE #2017-30

AN ORDINANCE TO CARRY FORWARD
OUTSTANDING PURCHASE ORDERS AT JUNE 30, 2017

WHEREAS, The City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2017, and ending June 30, 2018, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, The City of Newton has outstanding purchase orders encumbered at June 30, 2017, that were not received before year end; therefore, those will be received and payable in the current fiscal year, and

WHEREAS, The City Council desires to honor these encumbrances and appropriate funds in the budget for Fiscal Year 2018.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

THE FOLLOWING SOURCE OF REVENUE AND APPROPRIATION ARE HEREBY APPROVED.

<table>
<thead>
<tr>
<th>General Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
</tr>
<tr>
<td>Fund Balance Appropriation</td>
</tr>
<tr>
<td><strong>Appropriation</strong></td>
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<tr>
<td>Administration</td>
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<tr>
<td>Marketing/Promotion</td>
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<tr>
<td>Streets and Drainage</td>
</tr>
<tr>
<td>Professional Services-Engineering</td>
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<tr>
<td>Public Safety – Police</td>
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<tr>
<td>Safety &amp; Uniform Supplies</td>
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<tr>
<td>Capital Outlay – Motor Vehicles</td>
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<tr>
<td>Public Safety – Fire</td>
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<tr>
<td>Vehicle Repair/Maintenance</td>
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<tr>
<td>Capital Outlay – Building/Bldg Impr</td>
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<tr>
<td>Planning</td>
</tr>
<tr>
<td>Professional Services – Engineering</td>
</tr>
<tr>
<td>Professional Services – Other</td>
</tr>
<tr>
<td>Parks and Recreation - Parks</td>
</tr>
<tr>
<td>Other Services</td>
</tr>
<tr>
<td>Capital Outlay – Other</td>
</tr>
</tbody>
</table>
Powell Bill Fund

Revenue
Fund Balance Appropriation 13-0000.3992 $ 23,650

Appropriation
Sidewalk Con/Recon/Repair 13-4253.6572 23,650

Water & Wastewater Fund

Revenue
Fund Equity Appropriation 61-0000.3995 $ 677,300

Appropriation
Water & Wastewater Operations
Professional Services – Engineering 61-7100.4940 98,500
Professional Services – Other 61-7100.4990 273,550
Capital Outlay – Sewer Lines 61-7100.8942 172,800
Wastewater Treatment Plant
Maintenance/Repair Supplies 61-7141-5400 132,450

Electric Fund

Revenue
Fund Equity Appropriation 63-0000.3995 $ 139,700

Appropriation
Professional Services – Engineering 63-7201.4940 71,700
Miscellaneous 63-7201.7990 68,000

Adopted this 1st day of August, 2017.

Anne P. Stedman, Mayor

Attest:

Amy S. Falowski, City Clerk
DATE: July 14, 2017

TO: E. Todd Clark, City Manager

FROM: Sean Hovis, Assistant City Manager

CONSIDERATION OF: Street Closure – Foothills Folk Art Festival

Approved for Council Consideration

Background:

The Downtown Newton Development Association requests street closure for the “Foothills Folk Art Festival”, a juried art festival that is a partnership with the Hickory Museum of Art. The requested date is October 7th, 2017 from 5:00 a.m. until 8:00 p.m. Shannon Johnson, Main Street Coordinator for Newton has requested that the following streets be closed:

Saturday, October 7th from 5am: C Street between Brady and Ashe Ave., B Street between Brady and Ashe Ave., A Street between Brady and Ashe Ave., 1st Street between Brady and Ashe Ave., 2nd Street between Brady and Ashe Ave., 3rd Street between Brady and Ashe Ave., College Ave. between C Street and 4th Street, Main Ave. between C Street and 4th Street.

The streets will be re-opened Saturday at 8 p.m.

If approved by City Council, staff will assist with filing the request on behalf of Shannon Johnson for the Downtown Newton Development Association for the street closure with the N.C.D.O.T. for the closure of this street per the attached map.

Requested Action:

That City Council decides whether to authorize the closure of the streets as requested by Downtown Newton Development Association event, for the 7th of October, 2017, from 5:00 a.m. until 8:00 p.m.
North Carolina Department of Transportation

Special Event Request Form
Effective 7/31/15, Revised 2/25/16

This request form is required for non-governmental entities for all special events requiring a road, lane, and/or shoulder closure, or repurposing a State Highway System facility for something other than its intended use, except where a county or municipality is regulating the use of the highways in accordance with General Statute §30-169. This form must be submitted with a formal request to the appropriate Division Engineer(s) at least sixty (60) days prior to the scheduled beginning of the event. See a listing of the Highway Divisions and their contact information at the following URL:


Section A: Event Information

Name of Event: Foothills Folk Art Festival
Type of Event: Art Show + Sale
County/Counties: Catawba
City/Cities: Newton
Event Date(s): October 7th, 2017
Event Time(s): 10-4 (Streets closed from 5am - 8pm)
Primary Sponsoring Organization: Downtown Newton Development Association
Anticipated number of participants (estimate): 400
Anticipated number of spectators (estimate): 5,000
Approximate distance in miles: 1
Requested Action(s):
- [x] Road Closure*
- [ ] Lane Closure*
- [ ] Shoulder Closure*
- [ ] Repurposing a State Highway System facility for something other than its intended use

*For closures, anticipated time road/lane/shoulder will actually close: _______ and re-open: _______

Section B: Contact Information

Director/Organizer Name: Shannon Johnson
Email: sjohnson@newtonnc.gov
Mailing Address: P.O. Box 550, Newton 28658
Telephone 1: 828-465-4300
Telephone 2: 828-464-0854
Fax: __________

Responsible Local Government: City of Newton
Local Government Contact: Sara Hulvis
Email: shulvis@newtonnc.gov
Telephone 1: 828-465-4300
Telephone 2: __________
Fax: __________

Responsible Law Enforcement Agency: City of Newton Police Department
Law Enforcement Contact: Chief Dan Brown
Email: dbrown@newtonnc.gov
Telephone 1: 828-465-4300
Telephone 2: __________
Fax: __________
DATE: July 27, 2017

TO: E. Todd Clark, City Manager

FROM: Kevin Yoder, Fire Chief

CONSIDERATION OF: Approval of the pyrotechnics display permit for the American Legion Fairgrounds

Background:

1. NC General Statute §14-410 states the City Council has to approve any discharge of pyrotechnics at any public exhibit or concert in their jurisdiction.

2. The American Legion Fairgrounds has requested a permit to discharge pyrotechnics during the period of August 30th - September 3rd, 2017 at approximately 10:00 pm-11:00 pm each night. This will result in five separate evenings that pyrotechnics will be displayed.

3. The American Legion has applied to the City of Newton Fire Department for a permit to discharge pyrotechnics upon approval of the authority having jurisdiction and subsequent inspection by the City of Newton Fire Department each night prior to the pyrotechnics display.

4. It is a requirement of the NC General Statute that the responsible party displaying pyrotechnics be certified by the Office of the State Fire Marshal.

5. Attached please find a copy of the pyrotechnics display permit issued to the American Legion Fairgrounds by the City of Newton Fire Department, Certificate of Liability Insurance, Catawba County Board of Commissioners Resolution No. 2010-13, NC General Statute §14-410, a copy of the NC Outdoor Pyrotechnics Display Operators License for Jason M. Vaughn, Tara Locklin Vaughn, and Rodney Gene Morrison.

Action Suggested:

Approval of the permit for pyrotechnics display at the American Legion Fairgrounds from August 30th - September 3rd, 2017. We have attached a copy for your convenience
Board and/or Committee Application

City of Newton
PO Box 550
Newton, NC 28658
828-695-4300

Name_______ Andrea Ortiz
____________________________________________

Mailing Address_________ 114 West 6th Street, Newton_______________________________

Home Address_____ 114 West 6th Street

Work Phone#_____________ Home#__________________ Cell# __561-889-2096__

Resident of the city Yes Number of Years ____________________________________________

Business owner in the city Yes/No Number of Years __________________________________

1. Why are you interested in serving on the Appearance Board/Committee?

I would love to see Newton thrive, grow and prosper. Newton has so much potential and the opportunity is out there. We need to work on appearance which is what people see first. I would like to offer my creative ideas to the committee and hopefully this will bring growth for both business and residential.

2. What is your professional and educational background?

I am an Accountant at GKN. I have worked in Corporate Accounting for 14 years. I am presently working on my Bachelor's Degree. I graduated from Maiden High School.

3. Do you have special skills, experience or background which would assist you in working on this Board/Committee?

I have lived and traveled all over the US and have visited parts of Europe. I have seen cities grow and flourish. I hope I can bring fresh ideas along with using my organizational and creative skills.

4. How did you hear about this Board/Committee vacancy?

5. My mother, Collette Touchette, offered an invitation to come to a meeting.

_________________________________    ________________________
Signature               Date

Thank you for your interest in the City of Newton and specifically your interest in being considered for a city board or committee. You along with other applicants will be considered for any current vacancies. Upon submittal to the city this application and the information provided herein will be kept on file with the city and be considered public information.
CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: July 27, 2017

TO: E. Todd Clark, City Manager

FROM: Randy Williams, AICP, Planning Director

CONSIDERATION OF: Newton Comprehensive Pedestrian Plan Approval

Approved for Council Consideration

Background:

The NCDOT Pedestrian Plan Grant Initiative is a matching grant program that encourages municipalities to develop comprehensive pedestrian plans and is sponsored by the Division of Bicycle and Pedestrian Transportation. This program has been in place since 2004 and is eligible for municipalities under 25,000 in population.

This plan will assist the City to address not only the infrastructure needs but also to develop project priorities; review local policies and guidelines; and identify opportunities for the implementation and education and safety programs.

Review:

In October 2015, the City Council approved the submission of a grant application to NCDOT Bicycle and Pedestrian Division for a city-wide pedestrian plan. Planning Staff received word in March 2016 that the grant application was approved for funding and the City of Newton was awarded the grant. ALTA Planning Consultants was chosen to author the plan with citizen outreach meetings and a steering committee to oversee the plan development.

With limited resources and a long list of needs for sidewalk repairs and extensions, the Pedestrian Plan will assist the City to with prioritization, a review of the detailed needs assessment, and determine the best interconnection to bicycle and transit options within Newton. The Pedestrian Plan will also be used as background data for potential comprehensive plan update and identified small area plans. The implementation recommendations of this plan will also be used as we begin to update the development standards for the City. Additionally, it will need to show the benefits of non-vehicular network necessary for transportation to all citizens by establishing safe alternatives to vehicle travel for access throughout city and open additional connections to recreation facilities.

During the fall of 2016, several steering committee meetings were held along with public outreach including an Existing Conditions Walk and ending with a Public Plan Charrette in December. In January 2017, a final draft was completed and an overview was presented to City Council at the annual retreat. Following that in February, the Planning Commission approved the final draft to be forwarded to NCDOT for review, which staff received comments in late May. Also during that period, planning staff had received additional public comments on the plan. During June, planning staff directed ALTA Planning to revise the plan to address the comments from both NCDOT and the public. The draft Newton Comprehensive Pedestrian Plan has been posted on the city’s website for review, and can be accessed at: http://www.newtonnc.gov/walk.pdf

Action Suggested:

Planning Staff presented the plan to the Planning Commission for their review and endorsed it to be forwarded to the City Council for approval. The Planning Commission held a public hearing on the revised final draft at their July 25, 2017 meeting, heard public comment and recommends adoption to City Council.
Resolution 14-2015
Authorizing City of Newton, NC to submit a grant application to the NCDOT for a City-wide Comprehensive Pedestrian Plan.

LEGISLATIVE INTENT/PURPOSE

The NCDOT Pedestrian Plan Grant Initiative is a matching grant program that encourages municipalities to develop comprehensive pedestrian plans and is sponsored by the Division of Bicycle and Pedestrian Transportation. This program was initiated through a special allocation of funding approved by the North Carolina General Assembly in 2003 and has been in place beginning in January 2004. Municipalities under 25,000 in population are eligible to apply. The funding requires a minimum 30% local match; and

WHEREAS; Adopted in June 2015, the City completed community driven Strategic Growth Plan which set in place the projects and needs for the city for the next 10 to 20 years. Part of the effort included an identification of sidewalk needs throughout the city as represented during the citizen participation meetings; and

WHEREAS; Many needs were identified to connect areas where there were noncontiguous sections of sidewalks, underserved areas, and gaps in the existing pedestrian network. Additionally areas without sidewalks along major roads and connecting to schools and parks were identified; and

WHEREAS; Throughout August and September of 2015, The Wooten Company completed a city-wide assessment of the existing sidewalks and the conditions and estimated a dollar amount required to repair and replace deficiencies within the network; and

WHEREAS; The NCDOT Pedestrian Plan will assist the City to with prioritization, a review of the detailed needs assessment, and determine the best interconnection to bicycle and transit options within Newton; and

WHEREAS; The Pedestrian Plan will also be used as background data for an upcoming comprehensive plan update and identified small area plans. The implementation recommendations of this plan will also be used as we begin to update the development standards for the City; and

WHEREAS; The grant funds are distributed to local jurisdictions by application for grant funds and require a minimum 30% cash match based on the City’s population. Based on NCDOT’s formula for cities between 10,000 and 50,000 in population, the estimated consultant cost for the plan is $35,000 to $60,000. Therefore, staff’s estimate for the plan is $40,000 based on Newton’s population; NCDOT’s portion would be $28,000 (70%), with Newton share being $12,000 (30%).

THEREFORE, BE IT RESOLVED: That, Randolph S. Williams, AICP, City of Newton Planning Director is hereby authorized to submit a grant application to NCDOT Division of Bicycle and Pedestrian Planning for a Comprehensive Pedestrian Plan.

Adopted this 20th day of October, 2015

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk
To: Randolph S. Williams, Planning Director, City of Newton

From: Heather Seagle, Planner, Alta Planning + Design

Date: July 19, 2017

Re: Summary of Revisions to Final Draft of the Newton Pedestrian Plan

Final Draft Revisions Summary

We received revisions and feedback on the Newton Pedestrian Plan from NCDOT’s Division of Bicycle and Pedestrian Transportation June 16, 2017. In the weeks following, after having reviewed the comments with you, we have made the following changes to the final draft report:

- Chapter titles were added in footer for quick reference
- Chapter 1
  - Background data on pedestrian statistics in was updated with most recent data
  - Summary of economic impact of several trails and greenways in NC, SC, and VA was added
- Chapter 2
  - Summary demographic data of survey respondents was added
- Chapter 4
  - Update added about Newton’s recent “Watch For Me, NC” award
- Chapter 5
  - Proposed Heritage Trail Greenway alignment between NC-10 and Southside Park was removed in response to concerns from the Dogwood Hill neighborhood residents.
  - Updates were added on the recent installments of RRFB, flashing pedestrian signage, and a pedestrian refuge island.
  - An additional cutsheet for an I Street crossing was developed as a more feasible alternative to the J Street crossing.
- Chapter 6
  - Updated the cost estimates based on most recently available data through UNC-Charlotte’s “Cost of Independent Bicycle and Pedestrian Facilities” report
- Appendix
  - Additional local funding opportunities were added
DATE: July 18, 2017

TO: E. Todd Clark, City Manager

FROM: Dusty Wentz, Public Works and Utilities Director

CONSIDERATION OF: Use of contingency for Change Order 1 for the High School Sewer Replacement Project

Background:

Work replacing the collapsed sanitary sewer main at Newton-Conover High School is ongoing. Two issues have arisen during construction of the new line.

First, a 10’x20’ sink hole approximately six foot deep developed directly above the existing sewer main, almost exactly at the location where staff had determined the existing line had collapsed. The contractor removed the wet soil and placed 28 tons of washed stone and selected backfill to close the sink hole. The cost to complete this work was $6,300.

Second, an additional 35 foot of five foot wide sidewalk repair has been identified as needed for replacement. The estimate regarding sidewalk replacement was caused by two factors. First, due to an oversight, the Engineer and staff failed to update the bid tab quantity for sidewalk replacement after the final alignment of the new sewer line was determined. Second, additional sidewalk outside of the bid quantity has been identified as failing adjacent to the sidewalk to be removed for sewer line installation. This additional sidewalk is in poor condition and will likely not remain usable after the installation. The cost to complete this work is $3,430. This cost is an extension of the unit bid price submitted by the contractor during the bid process.

Together, both of these changes will require utilization of contingency in the amount of $9,730. The original total project amount is $174,561 which includes $14,886 (10%) held as contingency. After change order number 1, there will be $5,156 remaining in contingency.

Action Suggested:

Staff requests Council approve the use of $9,730 of available contingency for change order number 1 to address the two issues on the High School Sewer Line Replacement Project.
DATE: July 26, 2017

TO: E. Todd Clark, City Manager

FROM: Kevin Yoder, Fire Chief

CONSIDERATION OF: Acceptance of the 2016 SAFER (Staffing for Adequate Fire and Emergency Response) Grant for six additional Firefighters

Approved for Council Consideration

1. The Fire Department has applied for the SAFER grant almost every year since its inception.
2. The grant is a three year grant with the local unit committing to a match each year in the amount of 25% in year one, 25% in year two and 65% in year three.
3. The Fire Department was notified on July 21, 2017 that the City has been selected to be awarded the 2016 SAFER Grant.
4. The total amount of federal funding over the three year period is $582,417. The local share collectively over the three year period is $362,043.00.
5. During the three year grant period the local unit can have no reduction in staffing in the Fire Department without forfeiting part of or the entire grant.
6. The grant is for six additional full-time firefighters.
7. The justification for this grant is to comply with NFPA (National Fire Protection Association) minimum staffing guidelines for the Fire Department. The Fire Department does not currently meet minimum staffing levels required by the National Fire Protection Association.
8. Staff anticipates funding the local match through an increase in the Rural Fire District Tax rate, if approved by Catawba County.
9. The grant must be accepted within 30 days of the date of award and the new positions must be employed within 180 days of the date of award.
10. Staff anticipates a start date for these employees to be January 1, 2018; therefore an appropriation of approximately $40,000 will need to be approved for the local match.

Action Suggested:
Acceptance of the 2016 SAFER Grant and adoption of the attached budget ordinance amendment.
ORDINANCE #2017-31

CITY OF NEWTON
2016 STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT ORDINANCE

WHEREAS, the City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2017, and ending June 30, 2018, in accordance with the General Statutes of the State of North Carolina; and

WHEREAS, the City of Newton has been awarded a grant from the Department of Homeland Security, Federal Emergency Management Agency. The grant has been made available to the City of Newton under the 2016 SAFR Grant in the amount of $582,417; and,

WHEREAS, the grant funds must be used to pay salary and benefits for hiring 6 new full-time firefighters in an effort to enhance the fire department’s abilities to comply with staffing, response, and operational standards; and,

WHEREAS, the grant is a three year grant which requires a match from the City:

Year one – 75% grant - $236,115 / 25% match - $78,705
Year two – 75% grant - $236,115 / 25% match - $78,705
Year three – 35% grant - $110,187 / 65% match - $204,633

The match will be funded through a Rural Fire District Tax increase, if approved by Catawba County; and,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

Section 1: The project authorized is the 2016 SAFER Grant between the City of Newton and the Department of Homeland Security, Federal Emergency Management Agency in the amount of $582,417 with an award date of July 21, 2017 and extending for a three year period.

Section 2: The City Manager is authorized to execute the grant agreement and directed to proceed with the grant project within the terms of the grant documents, the rules and regulations of the Department of Homeland Security, Federal Emergency Management Agency and the budget contained herein.

Section 3: The following revenues are anticipated to be available for first half of year one of this project:

Revenues
General Fund
  Federal Grants 11-0000.3400 $118,100
  Fund Balance Appropriation 11-0000.3990 39,400
Section 4: The following amounts are appropriated for the first half of year one of this project:

**Appropriations**

**General Fund**

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Section 5: The Finance Officer is hereby directed to maintain within the Grant Project sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and federal and state regulations.

Section 6: Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7: Copies of this grant project ordinance shall be furnished to the Clerk to the City Council, and to the Budget Officer and the Finance Director for direction in carrying out this project.

Adopted this 1st day of August, 2017

Attest: Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk
DATE: July 28, 2017

TO: Mayor and City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: Consideration of The Use of Proceeds from the Lillian Sewell Jones Estate

Approved for Council Consideration

Background:

The City Council has contemplated the utilization of proceeds from the Jones’ estate on several occasions. The most recent review took place at the July 11, 2017, City Council meeting when a number of different potential uses of the money were discussed. At the conclusion of the July 11th meeting, City Council agreed to put the matter on the August 1, 2017, regular meeting agenda for the purpose of voting on the expenditure of principal funds currently held by the City.

Attached to this Request for Council Action is a copy of a document produced by the City’s Finance Director that includes the total amount of contributions to the City from the estate, the interest earned and the amount of interest that has been spent. Also, a copy of Ms. Jones’ last will and testament and a copy of her obituary were delivered to each Council member on July 26th for review.

Recommendation:

A copy of the minutes from the July 7, 2017, City Council meeting are included in the agenda packet for review and consideration as City Council deliberates the expenditure of principal funds allocated to the City by Ms. Jones’ estate.
City of Newton
Frank and Sue Jones Funds

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| Total      | 1,481,785.35   | 7,450.39         | 1,489,235.74
DATE: July 28, 2017

TO: Mayor and City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: Consideration of an Ordinance Allowing the Sale of Alcoholic Beverages Before Noon on Sundays at Licensed Premises

Approved for Council Consideration

Background:

The North Carolina General Assembly enacted Senate Bill 155 on June 29, 2017 that authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10:00 a.m. on Sundays. The bill was ratified and signed into law by Governor Cooper on June 30, 2017. A copy of the law has been included with this Request for Council Action for your review.

Recommendation:

The recommendation is for City Council to consider adopting Ordinance 2017-29 allowing the sale of alcoholic beverages before noon on Sundays at licensed premises.
ORDINANCE 2017-29
An Ordinance to Allow the Sale of Alcoholic Beverages
Before Noon on Sundays at Licensed Premises

WHEREAS, on June 29, 2017, the North Carolina General Assembly enacted Senate Bill 155, entitled “An Act to Make Various Changes to the Alcoholic Beverage Control Commission Laws”; and

WHEREAS, Section 4 of Ratified Senate Bill 155 authorizes city and county governments to adopt an ordinance to allow alcohol sales beginning at 10 am on Sundays; and

WHEREAS, Ratified Senate Bill 155 was signed into law by Governor Roy Cooper on the 30th day of June, 2017 and became effective on that date (Session Law 2017, Chapter 87); and

WHEREAS, by enacting Senate Bill 155, North Carolina joins 47 other States in allowing alcohol service before noon on Sunday; and

WHEREAS, Sunday morning alcohol service will allow the hospitality community and retail merchants in our community to meet the needs of their customers; and

WHEREAS, Sunday morning alcohol service will benefit our small business community, bring people into business districts earlier in the day, and generate increased tax revenues; and

WHEREAS, our community has a diverse and growing population with different religious beliefs, each of which has various times and multiple days for worship;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Newton, North Carolina that:

Section 1. Pursuant to the authority granted by S.L. 2017-87 any establishment located in the corporate limits of the City of Newton and holding an ABC permit issued pursuant to G.S. 18B - 1001 is permitted to sell beverages allowed by its permit beginning at 10 A.M. on Sundays.

Section 2. All laws and clauses of law in conflict herewith are repealed to the extent of any such conflict.

Section 3. This ordinance is effective on the 1st day of October, 2017.

Adopted this 1st day of August, 2017

________________________________
Anne P. Stedman, Mayor

_____________________________________
Amy S. Falowski, City Clerk
AN ACT TO MAKE VARIOUS CHANGES TO THE ALCOHOLIC BEVERAGE CONTROL COMMISSION LAWS.

The General Assembly of North Carolina enacts:

DISTILLERY PERMIT AMENDMENTS

SECTION 1.(a) G.S. 18B-1105 reads as rewritten:


(a) Authorized Acts. – The holder of a distillery permit may do any of the following:

1. Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.

2. Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.

3. Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

4. Sell spirituous liquor distilled at the distillery in closed containers to visitors who tour the distillery for consumption off the premises. Sales under this subdivision are allowed only in a county where the establishment of a county or municipal ABC store has been approved pursuant to G.S. 18B-602(g) and are subject to the time and day restrictions in G.S. 18B-802. Spirituous liquor sold under this subdivision shall (i) be listed as a code item for sale in the State, (ii) be sold at the price set by the Commission for the code item pursuant to G.S. 18B-804(b), and (iii) have affixed to its bottle a sticker that bears the words "North Carolina Distillery Tour Commemorative Spirit" in addition to any other labeling requirements set by law. Consumers purchasing spirituous liquor under this subdivision are limited to purchasing, and the selling distillery is limited to selling to each consumer, no more than one bottle five bottles of spirituous liquor per 12 month period. The distillery shall use a commonly adopted standard point of sale system to maintain searchable electronic records captured at the point of sale, to include the purchaser's name, drivers license number, and date of birth for at least 12 months from the date of purchase. The Commission shall adopt rules regulating the retail sale of spirituous liquor under this subdivision.

5. Conduct consumer tastings in accordance with G.S. 18B-1114.7.

(b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

SECTION 1.(b) G.S. 18B-804 is amended by adding a new subsection to read:
§ 18B-804. Alcoholic beverage pricing.
(a) Uniform Price of Spirituous Liquor. – The retail price of spirituous liquor sold in ABC stores and permitted distilleries shall be uniform throughout the State, unless otherwise provided by the ABC law.
(b) Sale Price of Spirituous Liquor. – The sale of spirituous liquor, including antique spirituous liquor, sold at the uniform State price shall consist of the following components:
   (1) The distiller’s or the antique spirituous liquor seller’s price.
   (2) The freight and bailment charges of the State warehouse as determined by the Commission.
   (3) A markup for local boards as determined by the Commission.
   (4) The tax levied under G.S. 105-113.80(c), which shall be levied on the sum of subdivisions (1), (2), and (3).
   (5) An additional markup for local boards equal to three and one-half percent (3 1/2%) of the sum of subdivisions (1), (2), and (3).
   (6) A bottle charge of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
   (6a) The bailment surcharge.
   (6b) An additional bottle charge for local boards of one cent (1¢) on each bottle containing 50 milliliters or less and five cents (5¢) on each bottle containing more than 50 milliliters.
   (7) A rounding adjustment, the formula of which may be determined by the Commission, so that the sale price will be divisible by five.
   (8) If the spirituous liquor is sold to a mixed beverage permittee for resale in mixed beverages, a charge of twenty dollars ($20.00) on each four liters and a proportional sum on lesser quantities.
   (9) If the spirituous liquor is sold to a guest room cabinet permittee for resale, a charge of twenty dollars ($20.00) on each four liters and a proportional sum on lesser quantities.

(b1) Price of Spirituous Liquor Sold at Distillery. – When the holder of a distillery permit sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the retail price of the spirituous liquor shall be the uniform State price set by subsection (a) of this section. However, the holder of the distillery permit shall not be required to remit the components of the price set forth by subdivisions (2), (3), (5), (6), (6a), (6b), and (7) of subsection (b) of this section.

(c) Sale Price of Fortified Wine. – The sale price of fortified wine shall include the tax levied by G.S. 105-113.80(b), as well as State and local sales taxes.

(d) Repealed by Session Laws 1985, c. 59, s. 2."

SECTION 1.(c) G.S. 18B-800 reads as rewritten:

§ 18B-800. Sale of alcoholic beverages in ABC stores.
(a) Spirituous Liquor. – Except as provided in Article 10, Articles 10 and 11 of this Chapter, spirituous liquor may be sold only in ABC stores operated by local boards.

...."

SECTION 1.(d) The Alcoholic Beverage Control Commission shall adopt temporary rules to amend its rules consistent with this section.

SECTION 1.(e) This section becomes effective July 1, 2017.

CREATE SPIRITUOUS LIQUOR SPECIAL EVENT PERMIT TO ALLOW DISTILLERIES TO GIVE FREE TASTINGS

SECTION 2.(a) G.S. 18B-301 reads as rewritten:

"§ 18B-301. Possession and consumption of fortified wine and spirituous liquor.

..."
(c) Incident to Sale. – It shall be lawful to possess fortified wine and spirituous liquor at any place, such as an ABC store, where possession is a necessary incident to lawful sale. Consumption at such a place shall be unlawful unless the establishment has a permit authorizing consumption on the premises as well as sale.

(f) Unlawful Possession or Use. – As illustration, but not limitation, of the general prohibition stated in G.S. 18B-102(a), it shall be unlawful for:

(1) Any person to consume fortified wine, spirituous liquor, or mixed beverages or to offer such beverages to another person at any of the following places:
   a. On the premises of an ABC store.
   b. Upon any property used or occupied by a local board.
   c. On any public road, street, highway, or sidewalk, unless a consumer tasting authorized by G.S. 18B-1114.7 is being conducted.

SECTION 2.(b) G.S. 18B-902(d) is amended by adding new subdivisions to read:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit — $400.00.
(2) Off-premises malt beverage permit — $400.00.
(3) On-premises fortified wine permit — $400.00.
(4) Off-premises fortified wine permit — $400.00.
(5) On-premises fortified wine permit — $400.00.
(6) Off-premises fortified wine permit — $400.00.
(7) Brown-bagging permit — $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit — $400.00.
(9) Limited special occasion permit — $50.00.
(10) Mixed beverages permit — $1,000.
(11) Culinary permit — $200.00.
(12) Unfortified winery permit — $300.00.
(13) Fortified winery permit — $300.00.
(14) Limited winery permit — $300.00.
(15) Brewery permit — $300.00.
(16) Distillery permit — $300.00.
(17) Fuel alcohol permit — $100.00.
(18) Wine importer permit — $300.00.
(19) Wine wholesaler permit — $300.00.
(20) Malt beverage importer permit — $300.00.
(21) Malt beverage wholesaler permit — $300.00.
(22) Bottler permit — $300.00.
(23) Salesman permit — $100.00.
(24) Vendor representative permit — $50.00.
(25) Nonresident malt beverage vendor permit — $100.00.
(26) Nonresident wine vendor permit — $100.00.
(27) Any special one-time permit under G.S. 18B-1002 — $50.00.
(28) Winery special event permit — $200.00.
(29) Mixed beverages catering permit — $200.00.
(30) Guest room cabinet permit — $1,000.
(31) Liquor importer/bottler permit — $500.00.
(32) Cider and vinegar manufacturer permit — $200.00.
(33) Brew on premises permit — $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Repealed by Session Laws 2005-380, s. 1, effective September 8, 2005, and applicable to wine shipper permit applications submitted on or after that date.
(37) Wine shop permit – $100.00.
(38) Winemaking on premises permit – $400.00.
(39) Wine shipper packager permit – $100.00.
(40) Malt beverage special event permit – $200.00.
(41) Malt beverage tasting permit – $100.00.
(42) Spirituous liquor tasting permit – $100.00.
(43) Antique spirituous liquor permit – $100.00.
(44) Spirituous liquor special event permit – $200.00.
(45) Special auction permit – $750.00."

SECTION 2.(c) Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1114.7. Authorization of spirituous liquor special event permit.
(a) Authorization. – The holder of a supplier representative permit, brokerage representative permit, or distillery permit issued under G.S. 18B-1105 may obtain a spirituous liquor special event permit allowing the permittee to give free tastings of its spirituous liquors at trade shows, conventions, shopping malls, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission.
(b) Limitations. – Any consumer tasting is subject to the following limitations:
(1) The permit holder or the permit holder's authorized agent shall conduct the consumer tasting and the permit holder shall be solely responsible for any violations of this Chapter occurring in connection with the consumer tasting.
(2) The spirituous liquor shall be poured only by either (i) the permit holder conducting the consumer tasting or (ii) an employee or authorized agent of the permit holder conducting the consumer tasting who is at least 21 years of age.
(3) Each consumer shall be limited to one 0.25 ounce tasting sample of any product made available for sampling at the consumer tasting, and the total amount of the tasting samples offered to and consumed by each consumer shall not exceed 1.0 ounce of spirituous liquor in any calendar day.
(4) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer who is visibly intoxicated.
(5) The permit holder shall not offer tasting samples to, or allow consumption of tasting samples by, any consumer under the legal age for consuming spirituous liquor. The person pouring the spirituous liquor shall be responsible for verifying the age of the consumer being served by checking the identification of the consumer.
(6) The permit holder shall not charge a consumer for any tasting sample.
(7) A venue allowing tastings shall designate a tasting area within the venue that enables the permit holder to ensure that the consumer tasting is being conducted in compliance with this section. Consumers shall only be allowed to consume tasting samples within the designated tasting area.
(8) A consumer tasting shall not be allowed unless the venue is located in a jurisdiction that has approved the sale of mixed beverages.
(9) The permit holder may provide point-of-sale advertising materials and advertising specialties to consumers at the consumer tasting."
(10) The permit holder shall maintain for a period of at least one year a record of each consumer tasting conducted. The record shall include the date of the consumer tasting, the time of the consumer tasting, an identification of the venue at which the consumer tasting was held, an identification of the spirituous liquor that was provided for tasting at the consumer tasting, and the name of any person who poured spirituous liquor at the consumer tasting. The permit holder shall allow the ABC Commission to inspect those records at any time."

ALLOW SALE OF SPECIFIED ALCOHOLIC BEVERAGES AT AUCTION BY LICENSED AUCTIONEERS

SECTION 3.(a) G.S. 18B-603(f) reads as rewritten:

"§ 18B-603. Effect of alcoholic beverage elections on issuance of permits.

... (f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

(1) Special occasion permits.
(2) Limited special occasion permits.
(3) Brown-bagging permits for private clubs and congressionally chartered veterans organizations.
(4) Culinary permits, except as restricted by subdivision (d)(5).
(5) Special one-time permits issued under G.S. 18B-1002.
(6) All permits listed in G.S. 18B-1100.
(7) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC establishments.
(8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism resorts.
(9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments.
(10) Special auction permits issued under G.S. 18B-1002.1."

SECTION 3.(b) G.S. 18B-1002(a)(4) reads as rewritten:

"(a) Kinds of Permits. – In addition to the other permits authorized by this Chapter, the Commission may issue permits for the following activities:

(4) A permit may be issued to a collector of wine or wine, decorative decanters of spirituous liquor, or antique spirituous liquor authorizing that person to bring into the State, transport, or possess as a collector, a greater amount of those alcoholic beverages than is otherwise authorized by this Chapter, or to sell those alcoholic beverages in a manner prescribed by the Commission."

SECTION 3.(c) Article 10 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1002.1. Special auction permit.

(a) Permit Authorized. – A permit may be issued upon application to an auction firm or auctioneer licensed by the North Carolina Auctioneers Commission pursuant to Chapter 85B of the General Statutes to allow the licensed auction firm or auctioneer to sell at auction items described in G.S. 18B-1002(a)(4). An auction held under this section may receive competing bids that are in person or by telephone, fax, or online."
(b) Conditions of Permit. – A permit issued under this section is valid only for the auction specified in the permit. Any sales under this permit are subject to the purchase restrictions in G.S. 18B-303.

(c) Administrative Procedure. – Denial or revocation of a permit under this section does not entitle the applicant or permittee to a hearing under Chapter 150B of the General Statutes."

SECTION 3(d) This section becomes effective October 1, 2017.

ALLOW THE SALE OF ALCOHOLIC BEVERAGES BEFORE NOON ON SUNDAYS, SUBJECT TO LOCAL GOVERNMENT APPROVAL

SECTION 4(a) G.S. 18B-1004(c) reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

(c) Sunday Hours. – It is Except as authorized pursuant to G.S. 18B-112(b1), 153A-145.7, or 160A-205.3, it shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day."

SECTION 4(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-145.7. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a county may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 4(c) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-205.3. Hours of certain alcohol sales.

In accordance with G.S. 18B-1004(c), a city may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001."

SECTION 4(d) G.S. 18B-112 is amended by adding a new subsection to read:

"(b1) In accordance with G.S. 18B-1004(c), the Eastern Band of Cherokee Indians tribe may adopt an ordinance allowing for the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under the authority of G.S. 18B-112(d)."

AUTHORIZE SALE OF CROWLERS BY RETAIL PERMITTEES

SECTION 5(a) G.S. 18B-1001 reads as rewritten:


When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

(1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit authorizes (i) the retail sale of malt beverages for consumption on the premises, (ii) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of malt beverages in a cleaned, sanitized, resealable cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. It also authorizes the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

a. Restaurants
b. Hotels"
c. Eating establishments;
d. Food businesses;
e. Retail businesses;
f. Private clubs;
g. Convention centers;
h. Community theatres;
i. Breweries as authorized by G.S. 18B-1104(7) and (8).

(2) Off-Premises Malt Beverage Permit. — An off-premises malt beverage permit authorizes (i) the retail sale of malt beverages in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages in a cleaned, sanitized, resealable cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship malt beverages in closed containers to individual purchasers inside and outside the State. The permit may be issued for any of the following:

a. Restaurants.
b. Hotels.
c. Eating establishments.
d. Food businesses.
e. Retail businesses.
f. The holder of a brewing, distillation, and fermentation course authorization under G.S. 18B-1114.6. A school obtaining a permit under this subdivision is authorized to sell malt beverages manufactured during its brewing, distillation, and fermentation program at one noncampus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee.

(3) On-Premises Unfortified Wine Permit. — An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permitee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items
transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants
b. Hotels
c. Eating establishments
d. Private clubs
e. Convention centers
f. Cooking schools
g. Community theatres
h. Wineries
i. Wine producers

(4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned, sanitized, resealable cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another off-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by off-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The permit may also be issued to the holder of a viticulture/enology course authorization under G.S. 18B-1114.4. A school obtaining a permit under this subdivision is authorized to sell wines manufactured during its viticulture/enology program at one non-campus location in a county where the permittee holds and offers classes on a regular full-time basis in a facility owned by the permittee. The permit may also be issued for a winery or a wine producer for sale of its own unfortified wine during hours when the winery or wine producer's premises is open to the public, subject to any local ordinance adopted pursuant to G.S. 18B-1004(d) concerning hours for the retail sale of unfortified wine. A winery obtaining a permit under this subdivision is authorized to sell wine manufactured by the winery at one additional location in the county under the same conditions specified in
G.S. 18B-1101(5) for the sale of wine at the winery; provided, however, that no other alcohol sales shall be authorized at the additional location. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

(16) Wine Shop Permit. – A wine shop permit authorizes (i) the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container for consumption off the premises, (ii) the retail sale of malt beverages or unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas in a cleansed, sanitized, resealable cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled, and (iii) wine tastings on the premises conducted and supervised by the permittee in accordance with subdivision (15) of this section. It also authorizes the holder of the permit to ship malt beverages, unfortified wine, and fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses whose primary purpose is selling malt beverages and wine for consumption off the premises and regularly and customarily educating consumers through tastings, classes, and seminars about the selection, serving, and storing of wine. The holder of the permit is authorized to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sales for any 30-day period. The holder of a wine-tasting permit not engaged in the preparation or sale of food on the premises is not subject to Part 6 of Article 8 of Chapter 130A of the General Statutes.

SECTION 5.(b) The Alcoholic Beverage Control (ABC) Commission shall adopt rules to implement the provisions of this section by no later than 120 days after this act becomes law. The ABC Commission may adopt temporary rules to comply with the deadline set in this subsection. Any temporary rules adopted in accordance with this subsection shall remain in effect until permanent rules that replace the temporary rules become effective.

AUTHORIZE OFF-SITE STORAGE LOCATION FOR BREWERIES, WINERIES, AND DISTILLERIES

SECTION 6. Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1120. Noncontiguous storage locations.

A brewery, winery, or distillery may store any alcoholic beverages it manufactures pursuant to a permit issued under this Article at a noncontiguous storage location approved by the Alcohol and Tobacco Tax and Trade Bureau. The permittee must notify the Commission of any storage location used pursuant to this section. Any storage location used pursuant to this section shall be considered part of the premises of the brewery, winery, or distillery manufacturing the alcoholic beverages."

AUTHORIZE SALE OF UNFORTIFIED WINE ON PREMISES BY RETAIL BUSINESSES

SECTION 7. G.S. 18B-1001(3), as amended by Section 5 of this act, reads as rewritten:
"(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes (i) the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, (ii) the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises, and (iii) the retail sale of unfortified wine dispensed from a tap connected to a pressurized container utilizing carbon dioxide or similar gas into a cleaned and sanitized container that is filled or refilled and sealed for consumption off the premises and that identifies the permittee and the date the container was filled or refilled. The permit also authorizes the permittee to transfer unfortified wine, not more than four times per calendar year, to another on-premises unfortified wine permittee that is under common ownership or control as the transferor. Except as authorized by this subdivision, transfers of wine by on-premises unfortified wine permittees, purchases of wine by a retail permittee from another retail permittee for the purpose of resale, and sale of wine by a retail permittee to another retail permittee for the purpose of resale are unlawful. In addition, a particular brand of wine may be transferred only if both the transferor and transferee are located within the territory designated between the winery and the wholesaler on file with the Commission. Prior to or contemporaneous with any such transfer, the transferor shall notify each wholesaler who distributes the transferred product of the transfer. The notice shall be in writing or verifiable electronic format and shall identify the transferor and transferee, the date of the transfer, quantity, and items transferred. The holder of the permit is authorized to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

1. Retail businesses."

AUTHORIZE TASTINGS DURING BREWERY TOURS
SECTION 8. G.S. 18B-1104(6) reads as rewritten:

The holder of a brewery permit may:

... (6) Give its products to its employees and guests, customers, visitors, and employees for consumption on its premises. Nothing in this subdivision shall be construed as excluding customers and visitors at the brewery as part of a paid or complimentary tour of the brewery."

AUTHORIZE CERTAIN PERSONS TO SAMPLE ALCOHOLIC BEVERAGES FOR PURPOSES OF SENSORY ANALYSIS, QUALITY CONTROL, OR EDUCATION
SECTION 9. Article 11 of Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-1121. Authority to sample for sensory analysis, quality control, or educational purposes.
Except as otherwise prohibited under Article 3 of this Chapter, a commercial permittee licensed under this Article, or its agent or employee, may consume samples of alcoholic
beverages it is licensed to sell, free of charge, on its premises for purposes of sensory analysis, quality control, or education."

AMEND HOME BREWING LAWS
SECTION 10. G.S. 18B-306 reads as rewritten:
"§ 18B-306. Making wines and malt beverages for private use.
(a) Authority. – An individual may make, possess, and transport native wines and malt beverages for his the individual’s own use and for use, the use of his the individual’s family and guests. Native wines shall be made principally from honey, grapes, or other fruit or grain grown in this State, or from wine kits containing honey, grapes, or other fruit or grain concentrates, and shall have only that alcoholic content produced by natural fermentation. Malt beverages may be made by use of malt beverage kits containing grain extracts or concentrates guests, or the use at organized affairs, exhibitions, or competitions. For purposes of this section, the term "organized affairs, exhibitions, or competitions" includes homemaker’s contests, tastings, and judging.
(b) Selling Prohibited. – Wines and malt beverages made pursuant to this section may not be sold or offered for sale.
(c) Kits. – Wine kits and malt beverage kits may be sold in this State.
(d) Permit. – No ABC permit is required to make wines or malt beverages pursuant to this section."

CLARIFY LAW GOVERNING RELATIONSHIP BETWEEN BREWERIES AND AFFILIATED RETAILERS
SECTION 11. G.S. 18B-1116(a) reads as rewritten:
“(a) Prohibitions. – It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:
(1) Require that an alcoholic beverage retailer purchase any alcoholic beverages from that person to the full or partial exclusion of any other alcoholic beverages offered for sale by other persons in this State; or
(2) Have any direct or indirect financial interest in the business of any alcoholic beverage retailer in this State or in the premises where the business of any alcoholic beverage retailer in this State is conducted; or
(3) Lend or give to any alcoholic beverage retailer in this State or his employee or to the owner of the premises where the business of any alcoholic beverage retailer in this State is conducted, any money, service, equipment, furniture, fixtures or any other thing of value.

A brewery qualifying under G.S. 18B-1104(8) to act as a wholesaler or retailer of its own malt beverages G.S. 18B-1104(7) or (8) is not subject to the provisions of this subsection section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery’s transactions with the retail business on its premises, premises or other retail locations allowed under G.S. 18B-1104(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

AUTHORIZE BREWERY TA PROOMS TO SELL OTHER ALCOHOLIC BEVERAGES UPON RECEIVING THE APPROPRIATE PERMIT
SECTION 12. G.S. 18B-1104(7) reads as rewritten:
“(7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell
the brewery, and any additional retail location authorized under subdivision (8) of this section, any or all of the following:

a. The brewery's malt beverages or malt beverages that have been approved by the Commission for sale in North Carolina.

b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina only at the brewery upon receiving a permit under G.S. 18B-1001(4), Carolina.

c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area."

AUTHORIZE BREWERIES WITH PRODUCTION FACILITIES IN OTHER STATES TO DISTRIBUTE TO WHOLESALERS

SECTION 13. G.S. 18B-1104(4) reads as rewritten:

"(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to (i) dealers in other states licensed under this Chapter as authorized by the ABC laws."

AUTHORIZE FARM BREWERIES

SECTION 14. G.S. 18B-1104 is amended by adding a new subdivision to read:

"(7a) In an area where the sale of malt beverages has not been authorized, a brewery that produces agricultural products, including barley, other grains, hops, or fruit, used by the brewery in the manufacture of malt beverages may sell the malt beverages owned by the brewery and approved by the Commission for sale in North Carolina at the brewery for on- or off-premise consumption upon (i) obtaining the appropriate permit under G.S. 18B-1001 and (ii) receiving approval from the governing body of the city where the brewery is located or, if the brewery is not located in a city, the governing body of the county where the brewery is located. Approval may be granted only pursuant to a resolution of the governing body adopted at a regular meeting. Before adopting a resolution approving the sale of malt beverages under this subdivision, a governing board shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice of the public hearing shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included."

AMEND LAW GOVERNING BREWERY SALES AT ADDITIONAL RETAIL LOCATIONS

SECTION 15. G.S. 18B-1104 reads as rewritten:


The holder of a brewery permit may:

(8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it
per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery and malt beverages produced under subdivision (6a) of this section, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

TAX COMPLIANCE AND REPORTS

SECTION 16.(a) G.S. 18B-1104, as amended by this act, reads as rewritten:


(a) Authorized Acts. – The holder of a brewery permit may:

... (6a) Receive, in closed containers, and sell at the brewery, malt beverages produced inside or outside North Carolina under contract with a contract brewery. The contract brewery that manufactures the malt beverages shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. The contract malt beverages may be sold also at affiliated retail outlets of the brewery physically located on or adjacent to the brewery. Any malt beverages received from a contract brewery under this subdivision shall be made available for sale by the brewery to wholesalers for distribution to retailers, without discrimination, in the same manner as if the malt beverages were being imported by the brewery. Contract brewing is authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(8) subdivision (8) of this subsection where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b).

(7) In an area where the sale of any type of alcoholic beverage is authorized by law, and upon receiving the appropriate permit under G.S. 18B-1001, sell at the brewery, and any additional retail location authorized under subdivision (8) of this section subsection, any or all of the following:
a. The brewery's malt beverages that have been approved by the Commission for sale in North Carolina.
b. Malt beverages manufactured by the permittee in some other state that have been approved by the Commission for sale in North Carolina.
c. Any other alcoholic beverages approved by the Commission for sale in North Carolina, if sale of the alcoholic beverage is otherwise authorized in that area.

... (8) Obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The
authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than 25,000 barrels, as defined in G.S. 81A-9, barrels of malt beverages produced by it per year. A brewery not exceeding the sales quantity limitations in this subdivision may also sell the malt beverages manufactured by the brewery, and malt beverages produced under subdivision (6a) of this section, subsection, at not more than three other locations in the State, where the sale is legal, upon obtaining the appropriate permits under G.S. 18B-1001. A brewery operating any additional retail location pursuant to this subdivision under a different trade name than that used at the brewery shall also offer for sale at that location a reasonable selection of competitive malt beverage products. A sale at any additional retail location under this subdivision shall not be considered a wholesale sale for the purposes of Article 13 of this Chapter.

(b) Sales or Gifts. — A sale or gift under subdivision (5) or (6) of subsection (a) of this section shall not be considered a retail or wholesale sale under the ABC laws.

(c) Tax Compliance. — By October 1 of each year, the Commission shall confirm that the holder of a brewery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's brewery permit until the Commission receives notice from the Department of Revenue that the person is in compliance.

(d) Sales Report Upon Commission Request. — Within 60 days of a request by the Commission, a holder of a brewery permit who obtains a malt beverage wholesaler permit pursuant to subdivision (8) of subsection (a) of this section shall provide a sales report to the Commission. The report shall list separately all of the following for the 12-month period preceding the date of the request:

1. The number of barrels of malt beverages sold by the permit holder that were produced by the permit holder;
2. The quantity and dollar amount of malt beverages sold by the permit holder under subdivision (7) of subsection (a) of this section;
3. The quantity and dollar amount of malt beverages sold on-premises under subdivision (8) of subsection (a) of this section;
4. The quantity and dollar amount of malt beverages sold off-premises under subdivision (8) of subsection (a) of this section;
5. The quantity and dollar amount of malt beverages sold under G.S. 18B-114.5;
6. The quantity and dollar amount of malt beverages destroyed, spoiled, or otherwise rendered unsalable.

The Commission shall not request more than one sales report from a brewery within a 12-month period. The Commission shall keep all information provided pursuant to this subsection confidential except as required by law or requested by the Department of Revenue. The information shall not be a public record under Chapter 132 of the General Statutes.

(e) Definition. — For purposes of this section, the term "barrels" is as defined in G.S. 81A-9."

SECTION 16.(b) G.S. 18B-1105 is amended by adding a new subsection to read:

"(c) Tax Compliance. — By October 1 of each year, the Commission shall confirm the holder of a distillery permit is in compliance with G.S. 18B-900(a)(8). The provisions of G.S. 18B-900(f) apply to the confirmation required under this subsection, except that the Commission may suspend a person's distillery permit until the Commission receives notice from the Department of Revenue that the person is in compliance."

SECTION 16.(c) G.S. 18B-903(c1) reads as rewritten:
"(c1) Construction of Change in Ownership. — Nothing in subsection (c) of this section shall be construed to limit alternating brewery proprietorships in which the holder of a brewery permit leases or otherwise makes available its facility to another holder of a brewery permit. In this arrangement, the tenant brewery shall maintain title to the malt beverages at all states of the brewing process and shall be responsible for all aspects associated with manufacturing the product, including maintaining appropriate records, obtaining label approval in its own name, and remitting the appropriate taxes. Alternating brewery proprietorships are authorized between affiliated breweries, but shall not be used as a means to allocate production quantities between affiliated breweries to obtain a malt beverage wholesaler permit pursuant to G.S. 18B-1104(8) G.S. 18B-1104(a)(8), where either brewery would not otherwise qualify for a permit, and the Commission shall have no authority to grant an exemption to this requirement pursuant to G.S. 18B-1116(b)."

SECTION 16.(d) G.S. 18B-1001(1)i. reads as rewritten:

"i. Breweries as authorized by G.S. 18B-1104(7) and (8); subdivisions (7) and (8) of G.S. 18B-1104(a)."

SECTION 16.(e) G.S. 18B-1114.5(a) reads as rewritten:

"(a) Authorization. — The holder of a brewery permit, a malt beverages importer permit, a brewing, distillation, and fermentation course authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special event permit allowing the permittee to give free tastings of its malt beverages and to sell its malt beverages by the glass or in closed containers at trade shows, conventions, shopping malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, and other similar events approved by the Commission. Except for a brewery operating under the provisions of G.S. 18B-1104(8), G.S. 18B-1104(a)(8), all malt beverages sampled or sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

SECTION 16.(f) G.S. 18B-1116(a), as amended by this act, reads as rewritten:

"§ 18B-1116. Exclusive outlets prohibited.

(a) Prohibitions. — It shall be unlawful for any manufacturer, bottler, or wholesaler of any alcoholic beverages, or for any officer, director, or affiliate thereof, either directly or indirectly to:

... A brewery qualifying under G.S. 18B-1104(7) or (8); subdivision (7) or (8) of G.S. 18B-1104(a) is not subject to the provisions of this section concerning financial interests in, and lending or giving things of value to, a wholesaler or retailer with respect to the brewery's transactions with the retail business on its premises or other retail locations allowed under G.S. 18B-1104(8)-G.S. 18B-1104(a)(8). The brewery is subject to the provisions of this subsection, however, with respect to its transactions with all other wholesalers and retailers."

SECTION 16.(g) G.S. 18B-1305(a1) reads as rewritten:

"(a1) Termination by a Small Brewery. — A brewery's authorization to distribute its own malt beverage products pursuant to G.S. 18B-1104(8)-G.S. 18B-1104(a)(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction."

SIMPLIFY LOCAL LICENSING APPLICATIONS

SECTION 17. G.S. 105-113.70 reads as rewritten:

"§ 105-113.70. Issuance, duration, transfer of license.

Senate Bill 155-Ratified
(a) Issuance, Qualifications. — Each person who receives an ABC permit shall obtain the corresponding local license, if any, under this Article. All local licenses are issued by the city or county where the establishment for which the license is sought is located. The information required to be provided and the qualifications for a local license are the same as the information and qualifications required for the corresponding ABC permit. Upon proper application and payment of the prescribed tax, issuance of a local license is mandatory if the applicant holds the corresponding ABC permit. No documentation shall be required of the applicant except as provided in this section. Issuance of a local license is mandatory if the applicant holds the corresponding ABC permit and provides all of the following: (i) a copy of the most recently completed State application form for an ABC permit exclusive of any attachments, (ii) the ABC permit for visual inspection, and (iii) payment of the prescribed tax. No local license may be issued under this Article until the applicant has received from the ABC Commission the applicable permit for that activity, and no county license may be issued for an establishment located in a city in that county until the applicant has received from the city the applicable license for that activity.

(b) Duration. — All licenses issued under this section are annual licenses for the period from May 1 to April 30.

(c) Transfer. — A license may not be transferred from one person to another or from one location to another.

(d) License Exclusive. — A local government may not require a license for activities related to the manufacture or sale of alcoholic beverages other than the licenses stated in this Article.

CLARIFY WINERY SPECIAL EVENT LOCATIONS

SECTION 18. G.S. 18B-1114.1 reads as rewritten:

"§ 18B-1114.1. Authorization of winery special event permit.

(a) Authorization. — The holder of an unfortified winery permit, a limited winery permit, a viticulture/enology course authorization, or a wine producer permit may obtain a winery special permit allowing the winery or wine producer to give free tastings of its wine, and to sell its wine by the glass or in closed containers, at trade shows, conventions, shopping malls, wine festivals, street festivals, holiday festivals, agricultural festivals, balloon races, local fund-raisers, farmers markets, and other similar events approved by the Commission.

(b) Limitation. — A winery special event permit is valid only in a jurisdiction that has approved the establishment of ABC stores or has approved the sale of unfortified wine."

RULES

SECTION 19.(a) Except as otherwise provided, the Alcoholic Beverage Control (ABC) Commission shall adopt temporary rules to implement the provisions of this act. Temporary rules adopted in accordance with this section shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 19.(b) Any rule or policy adopted by the ABC Commission that does not comply with the provisions of this act shall be null, void, and without effect.

EFFECT OF HEADINGS

SECTION 20. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

EFFECTIVE DATE
SECTION 21. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2017.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved __________.m. this __________ day of ____________, 2017
CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: July 27, 2017

TO: E. Todd Clark, City Manager

FROM: R. S. Williams, AICP, Planning Director

CONSIDERATION OF: Budget Amendment – ElectriCities Smart Communities Grant Award

Approved for Council Consideration

Request:

ElectriCities offer a small Smart Communities Grant for their member cities which is targeted to assist innovative strategies for a number of categories. One such option is for the use in Downtown Revitalization and Economic Development projects demonstrating or implementing projects specifically in the member cities downtowns. In June of 2017, the Planning Department applied for this grant and was awarded the maximum $4000.00.

Background:

As a part of the Streetscape Plan, the Planning Department has worked with a consultant to build a 3D virtual reality model of downtown Newton with the full complement of Streetscape improvements being shown. This will be done using virtual reality software with five 360 degree views (4 on ground at each corner of the Square & 1 aerial) to depict the future look the Historic Downtown Square. This project will give citizens, entrepreneurs, investors, business owners and visitors a realistic idea of what and how the streetscape improvements will transform one of the key cultural assets of the City. It can be viewed using computers, iPads and VR glasses.

Recommendation:

It is the Newton Planning Department’s recommendation that the Newton City Council adopted the budget ordinance and accepts the grant to be used for the 3D virtual reality model of the Streetscape Project.
ORDINANCE # 2017-32

AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2017-2018 FOR THE CITY OF NEWTON

WHEREAS, the City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2017, and ending June 30, 2018, in accordance with the General Statutes of the State of North Carolina; and

WHEREAS, the City of Newton City Council desires to accept the Smart Communities Grant from ElectriCities in the amount of $4,000. The grant is targeted to assist innovative strategies for a number of categories such as Downtown Revitalization and Economic Development projects demonstrating or implementing projects specifically in the member cities downtowns; and,

WHEREAS, the City plans on utilizing the grant for the 3D virtual reality model of downtown Newton which will depict the future look of the Historic Downtown Square once the Streetscape Project is complete. This project will provide citizens, entrepreneurs, investors, business owners and visitors a realistic idea of the streetscape improvements; and,

WHEREAS, the City of Newton City Council desires to recognize the grant funds and the related expenditure for the 3D virtual reality model of the Streetscape Project; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

THE FOLLOWING SOURCE OF REVENUE AND APPROPRIATION ARE HEREBY APPROVED.

General Fund Revenues
  Special Project Cont/Other Grants  11-0000.3845   $ 4,000

General Fund Appropriations
  Professional Services-Other  11-4910.4990   $ 4,000

Adopted this 1st day of August, 2017.

________________________________________
Anne P. Stedman, Mayor

Attest:

______________________________
Amy S. Falowski, City Clerk